

Easements – a tool for preserving resources we value or a straight jacket that will limit our ability to adapt to a changing world: A Case Study from Paradise Cut

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Purpose of the Presentation

- Provide an update on Paradise Cut Bypass.
- Utilize Paradise Cut as a case study to illustrate the limitations and problems with easements.
- Identify and discuss more dynamic approaches for protecting resources in a changing world.

Three Types of Easements

- **Flood easement:** Restrict encroachments (including some types of habitat and agriculture), receive flood waters, and allow access of flood agencies for a variety of flood management purposes.
- **Agricultural Conservation easement:** protect agricultural capacity, not just existing agricultural practices.
- **Habitat easement:** vary widely depending on objective, but some can co-exist with agriculture (e.g. Swainson's Hawk).

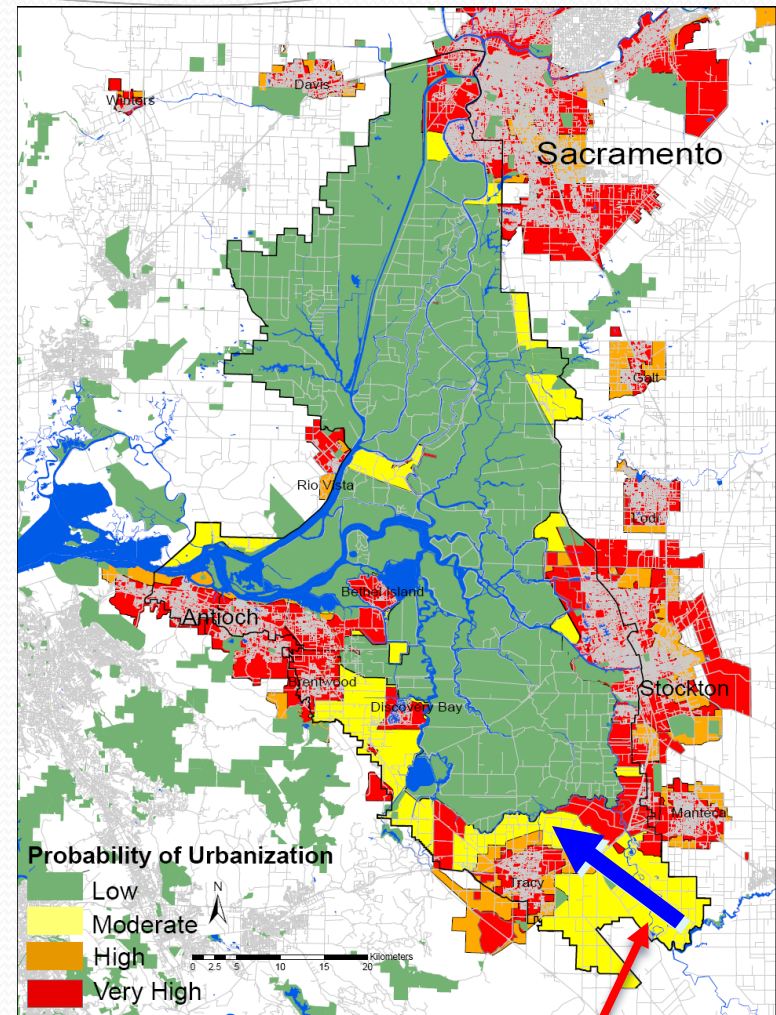
Rationale for Lower San Joaquin River Bypass

- Route flood waters away from the urban and urbanizing communities of Lathrop, Manteca, and Stockton.
- Expanding flood conveyance capacity along the lower San Joaquin River.



Multi-Benefit Project

- Reduce flood risk.
- Reduce long-term conflict between flood management and the environment.
- Increase flexibility for upstream reservoir management.
- Protect and conserve agricultural land.
- Provide major habitat benefits for riparian rabbit and Swainson's hawk
- Increase the area of floodplain habitat for fish.



Planned Urbanization

Proposed bypass
Location

State Plans and Legislation

- SB 5 directed DWR and CVFPB to evaluate “feasibility of potential bypasses or floodways that would significantly reduce flood stage in the San Joaquin River Watershed, upstream and south of Paradise Cut.”
- Delta Plan recommends implementation of LSJRB and prohibits encroachments in the LSJRB planning area.
- The 2012 and 2017 Central Valley Flood Protection Plans propose a new Lower San Joaquin River Flood Bypass through expansion of Paradise Cut.

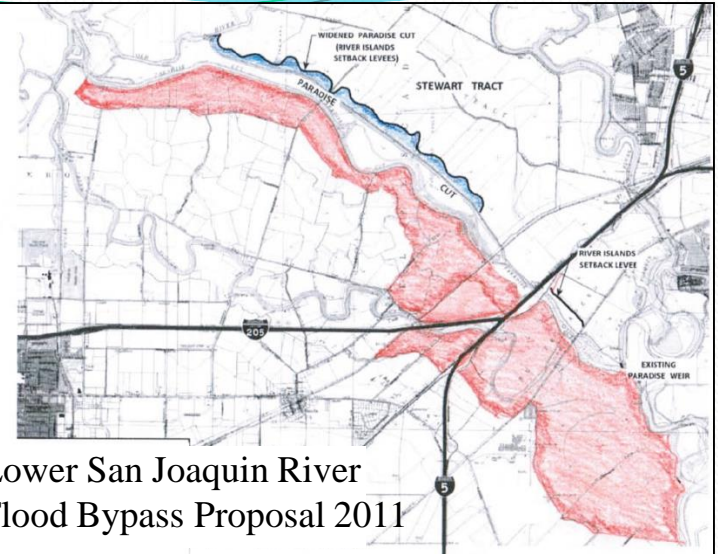
In the foreword to the 1998 addition of Battling the Inland Sea, David Kennedy, the longest serving director of DWR wrote:

“A latter-day version of the bypass debate is now unfolding on the San Joaquin River, after the 1997 flood . . . Further, consideration is being given to opening up some form of bypass through the south Delta to relieve pressure on the levees as the San Joaquin River flows into the Delta. *It is hoped these issues will be resolved and changes will be made before the next flood.*”

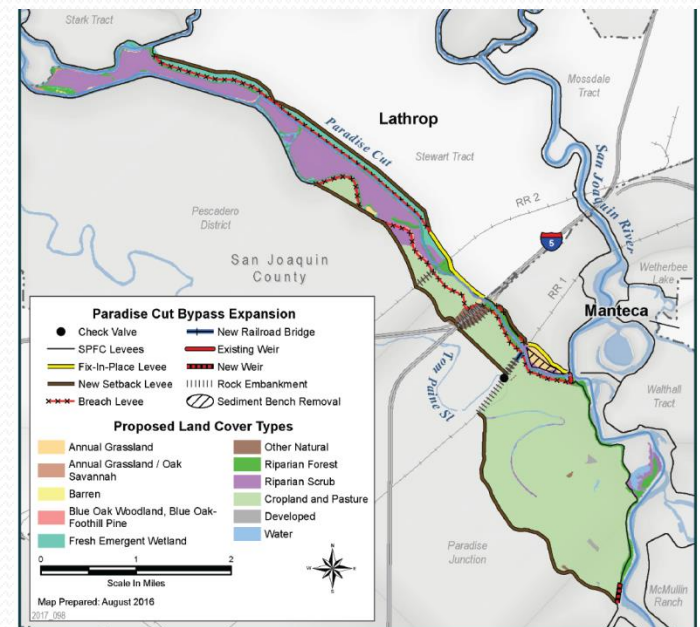
Delta Plan Guidance

Policy RP4: Floodplain Protection prohibits encroachments in the Lower San Joaquin River Floodplain Bypass Area

(3) The Lower San Joaquin River Floodplain Bypass area, located on the Lower San Joaquin River upstream of Stockton immediately southwest of Paradise Cut on lands both upstream and downstream of the Interstate 5 crossing. This area is described in the Lower San Joaquin River Floodplain Bypass Proposal, submitted to the California Department of Water Resources by the partnership of the South Delta Water Agency, the River Islands Development Company, Reclamation District 2062, San Joaquin Resource Conservation District, American Rivers, the American Lands Conservancy, and the Natural Resources Defense Council, March 2011. This area may be modified in the future through the completion of this project.

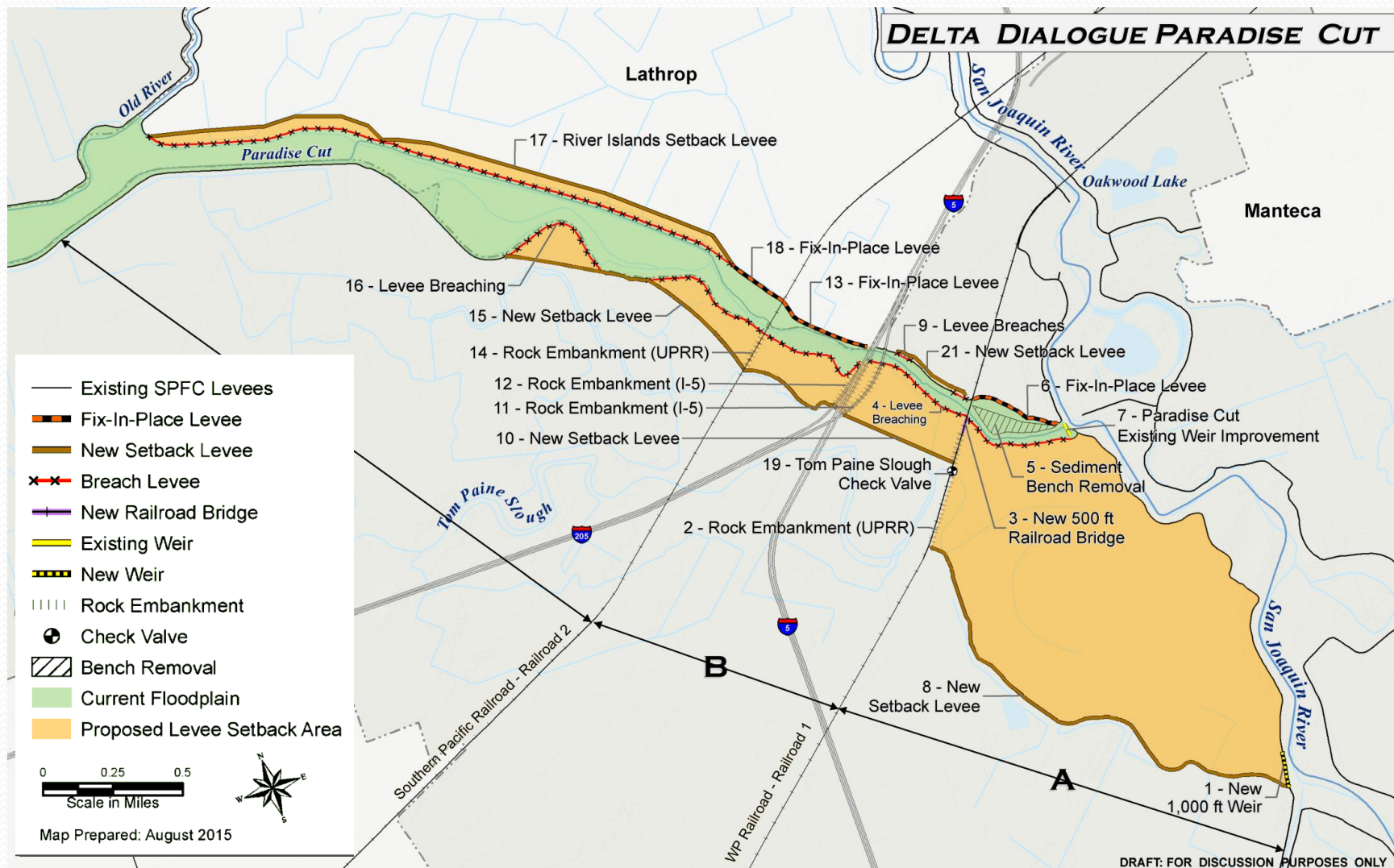


Lower San Joaquin River
Flood Bypass Proposal 2011



2017 CVFPP Plan

Paradise Cut Bypass Proposal

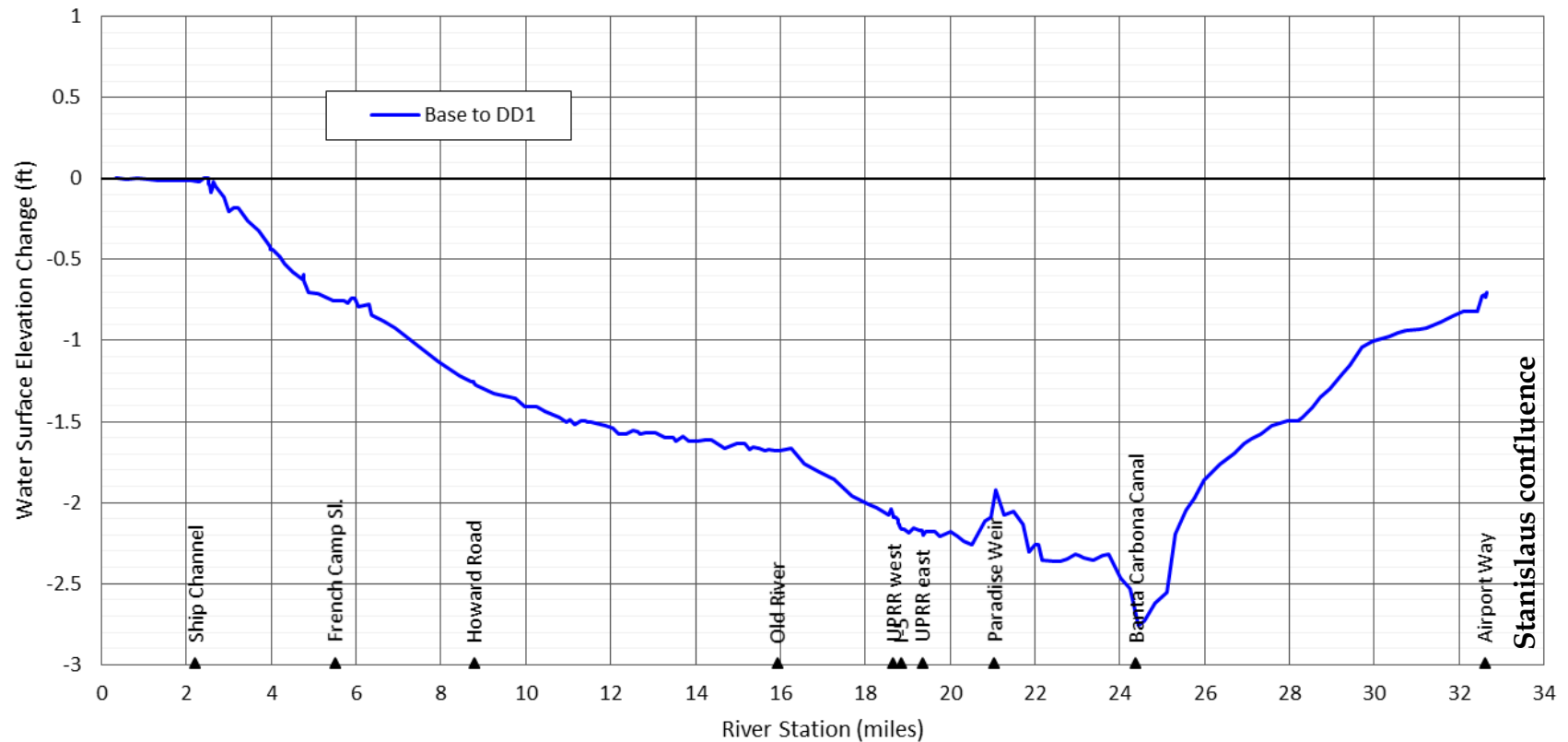


Flood Risk Reduction Benefits

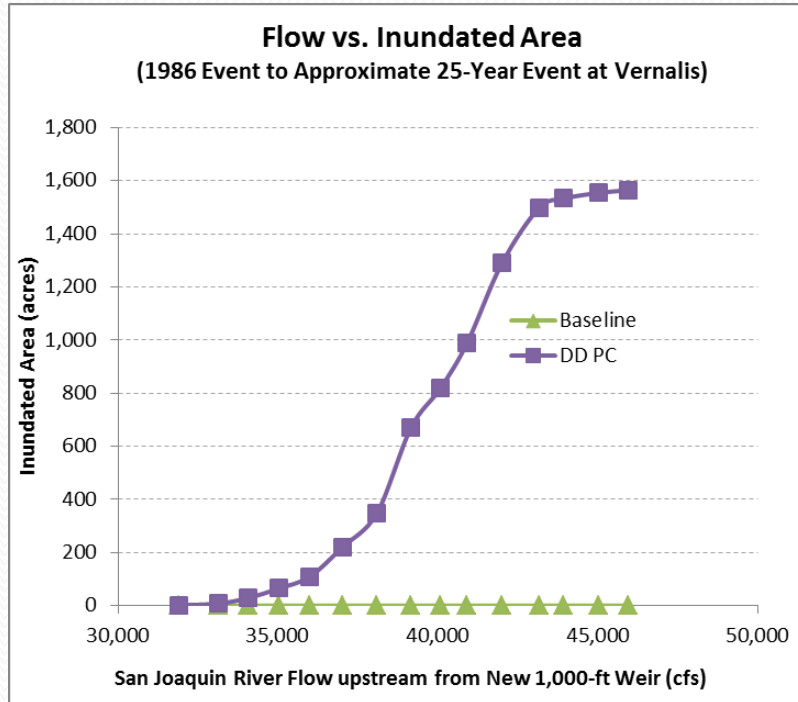
- Lower flood stage for the 200-year flood by over 2.5 feet
- Lower flood stage along 30 miles of river between the Stanislaus confluence and the Port of Stockton
- Significantly reduce flood risk for over 30,000 residents and 10,000 acres of farmland.

Hydraulic Performance

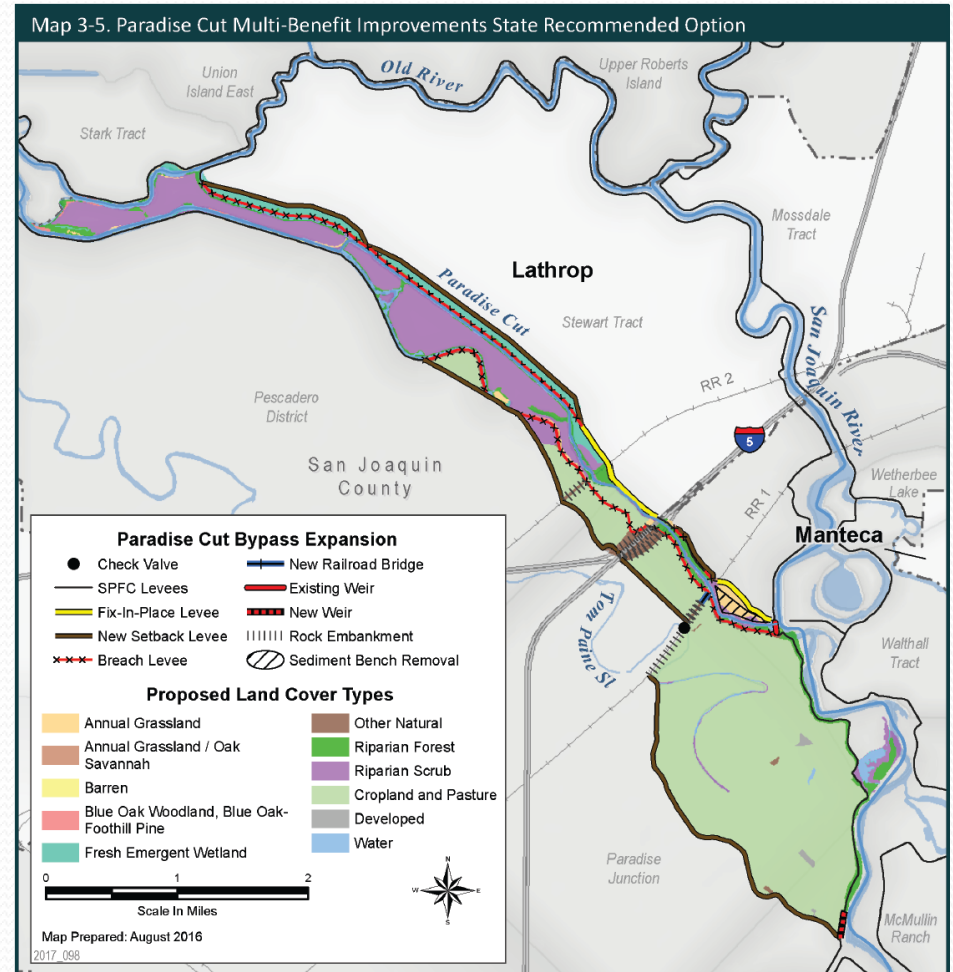
Maximum Water Surface Elevation Change - San Joaquin River
1997 115% (peak flow at latitude of Vernalis = 112.0 kcfs)



Existing Agricultural Practices will be allowed to Continue in the expanded bypass area



Flow (cfs)	Inundated Acreages	Return Interval in Years (Spring-run)		
		1-Day	3-Day	10-Day
31,913	2	9.7	10.6	12.4
35,991	109	11.9	13.1	14.9
40,912	990	14.9	16.1	18.0
43,170	1,499	16.2	17.4	19.4
47,994	1,582	19.1	20.4	22.4



Project Status

- Project included as a keystone of the 2017 Update of the Central Valley Flood Protection Plan.
- American Rivers and San Joaquin RCD implementing a \$200,000 planning study to refine plan
- DWR will conduct more detailed engineering design environmental studies to advance the project. obtained \$4 million in grants to purchase flood and habitat easements.
- American Rivers negotiating with landowners to purchase flood and habitat easement acquisition on 2,000 acres necessary for the bypass expansion.
- Legislature appropriated \$20 million of proposition 1.

Status of Funding and Acquisition Effort

- American Rivers and the SJRCD obtained \$4 million in grant funds to acquire flood and habitat easements on Paradise Cut.
- Legislature appropriated \$20 million of proposition 1, chapter 11 funds that could be used for easement acquisition.
- Total easement acquisition costs estimated at \$15 million.
- American River has contacted all landowners in the area and obtained appraisals on three properties comprising seventy percent of the bypass expansion area
- Easement acquisition effort on key parcel encountered major hurdle due to pre-existing agricultural conservation easement.

Existing Easement Prohibits New Flood and Habitat Easement

- “The grant of any easements, or other interests in land, or use restrictions that might diminish or impair the agricultural productive capacity or open space character of the property is prohibited.”
- “The Grantor may grant subsequent conservation easements or restrictions on the property provided that such easement or use restrictions do not significantly restrict agricultural husbandry practices . . .”

